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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

MCKENNA DENSON,

Plaintiff,

v.

CORPORATION OF THE
PRESIDENT OF THE CHURCH OF
JESUS CHRIST OF LATTER-DAY
SAINTS, a Utah corporation; and
JOSEPH L. BISHOP,

Defendants.

**MOTION TO APPROVE COP'S
PROPOSED REVIEW PLAN
AND MOTION TO EXPEDITE**

Case No. 2:18-cv-00284

The Honorable Dale A. Kimball
The Honorable Dustin B. Pead

Defendant Corporation of the President of The Church of Jesus Christ of Latter-day Saints (“COP”) submits Motion to Approve COP’s Proposed Review Plan and Motion to Expedite (the “Motion”).

On June 29, 2020, this Court granted COP’s Motion to Preserve Evidence (the “Order”). (Docket 119). The Order was based “upon the circumstances of this case, which includes the loss of evidence, the changing stories of Plaintiff concerning this evidence and how it was stored, the conflicting nature of reports Plaintiff has offered concerning an individual outside her home, and the alleged attacks upon her, the court finds circumstances here warrant access to her electronic devices and cloud based accounts to create a mirrored image.” *Id.* at 9.

On July 14, 2020, the Court granted COP’s Emergency Motion to Enforce Order requiring Ms. Denson to obtain access to her social media accounts and to contact her prior cellular phone provider “to obtain a new phone with her old phone number and recover any data that can be salvaged.” (Docket 121). Ms. Denson was also ordered to immediately contact her social media provider to gain access to her accounts. *Id.* And Ms. Denson was ordered to provide a declaration “detailing the circumstances surrounding her missing cellular phone.” *Id.*

Xact Data Discovery (“XDD”) has completed its collection efforts and provided a report. *See* Exhibit A - XDD Report, filed under seal concurrently with this Motion. In response to the Court’s order, Ms. Denson provided XDD with access to her social media accounts. Those accounts were collected. *Id.* Ms. Denson did not obtain a new cellular phone with her old number. Ms. Denson has

also not provided XDD with any iCloud account information for her missing phone, although she has confirmed that it was an iPhone. Accordingly, XDD was unable to recover any information from her missing phone. *Id.*

COP remains concerned about the pattern of Ms. Denson claiming that evidence has gone missing in this case.¹ COP believes that a review of the data collected by XDD may provide insight into the veracity of Ms. Denson's claims and whether other sources of data exist that should be preserved. COP respectfully requests that this Motion be expedited, and that Ms. Denson be required to submit her response, if any, to this Motion by August 14, 2020.² COP will then submit its reply by August 19, 2020.

I. COP'S PROPOSED REVIEW PLAN

XDD has collected and processed data from all the accounts and devices Ms. Denson provided. COP proposes the following process for the review and production of Ms. Denson's data:

² Ms. Denson has shown a pattern of failing to respond to COP's motion in a timely manner and instead filing a response only after a specific order by the Court. *See, e.g.*, Dockets 103, 110-113.

- XDD will identify a set of documents by using search terms provided by COP³ to identify documents that may be responsive and relevant to this case (the “Search Term Set”).
- XDD will then search the Search Term Set to identify potentially privileged documents (the “Potentially Privileged Documents”).

XDD will use the following privilege search terms⁴ for that process:

- @jvwlaw.net
 - @cohnekinghorn.com
 - hoxxoh@gmail.com
 - “work product”
 - privilege!
- XDD will then upload the Search Term Set, excluding any Potentially Privileged Documents, into a database for review by COP’s counsel

³ Counsel for COP has worked with XDD to generate a draft list of search terms to identify potentially responsive and relevant documents. Those search terms “hit” on approximately 15,000 documents. As is the case in any document review, further search terms may be identified in the course of the review. Even with additional search terms, counsel for COP does not anticipate that the Search Term Set will exceed 20,000 documents.

⁴ These terms include domain names and emails of Ms. Denson’s former counsel and the attorney who was considering representing Ms. Denson in December 2019. If Ms. Denson has corresponded with any other attorneys, she may provide their names and COP will update this list of privilege search terms.

(the “Review Set”). Counsel will then review the documents. Any responsive and relevant document will be bates-stamped and formally produced in this case.

- In the unlikely event that a document that may be privileged was not captured by the privilege search and was included in the Review Set, COP will promptly notify XDD and the document will be removed from the Review Set and added to the Potentially Privileged Documents. COP agrees in advance that this will not constitute a waiver of privilege by Ms. Denson.
- XDD will form a “Taint Team” of licensed attorneys to review the Potentially Privileged Documents. The Taint Team will produce any Potentially Privileged Documents that are not, in fact, subject to any privilege. The Taint Team will log any Potentially Privileged Documents withheld from production in accordance with Rule 26 of the Federal Rules of Civil Procedure.
- Any challenge to privilege will be made by motion in accordance with the Federal Rules of Civil Procedure and this Court’s Local Rules.

This review plan will ensure that responsive and relevant documents are produced. It also adequately protects Ms. Denson's privacy and her right to protect privileged documents. Accordingly, COP requests that this Motion be granted.

DATED: August 11, 2020.

STOEL RIVES LLP

/s/ Wesley F. Harward

David J. Jordan

Wesley F. Harward

*Attorneys for Defendant Corporation of
the President of The Church of Jesus
Christ of Latter-day Saints*

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2020, a full and correct copy of the foregoing **MOTION TO APPROVE COP'S PROPOSED REVIEW PLAN AND MOTION TO EXPEDITE** was served upon the following via email and U.S. mail:

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/s/ Rose Gledhill
